

United States District Court  
Southern District of Texas  
FILED

**TDPH** MAY 27 2005

Michael N. Milby, Clerk

United States District Court  
Southern District of Texas  
ENTERED

MAY 30 2005

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

Michael N. Milby, Clerk  
Laredo Division

LAREDO DIVISION

UNITED STATES OF AMERICA

VS.

ANDRES LUCERO

AKA: ROBERTO CARLOS LEAL

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CR. NO. 5:00CR01186-001

### ORDER

On February 2, 2001, Andres Lucero, AKA: Roberto Carlos Leal, appeared before the Honorable United States District Judge Keith P. Ellison, in the Southern District of Texas at Laredo for sentencing after pleading guilty to Possession with Intent to Distribute approximately 224 Pounds, Gross Weight, of Marihuana, in violation of 21 U.S.C. § 841(b)(1)(C). Mr. Lucero was sentenced to 46 months imprisonment followed by 3 years Supervised Release, drug/alcohol treatment, and was assessed a mandatory \$100 cost assessment.

On February 17, 2004, Andres Lucero was released from custody and commenced his supervised release term in McAllen, Texas. On May 26, 2005, Attorney Ricardo L. Salinas, 2011 N. Conway, Mission, Texas, 78572, issued a Subpoena requiring the presence of United States Probation Officer Celina Guerra, McAllen Division, or Custodian of Records, United States Probation Department, 1701 West Business Highway 83, McAllen, Texas 78502, commanding to appear at

the 275<sup>th</sup> Judicial District Court, Edinburg, Texas, on May 27, 2005, at 10:00 a.m., to produce documents reference to a trial relating to the case entitled, State of Texas v. Guadalupe Leon Canchola, and filed under Cause No. CR-0077-05-E, in the 275<sup>th</sup> Judicial District Court, Hidalgo County, Texas.

Attorney Ricardo L. Salinas is requesting that United States Probation Officer Celina Guerra/McAllen Division produce at the time and place specified above, the following documents or tangible things in her possession, custody, or control: Any and all documents, and reports, concerning Andres Lucero (D.O.B. May 6, 1997).

The subpoena issued to United States Probation Officer Celina Guerra does not mention how the testimony or records are relevant to the proceedings in the 275<sup>th</sup> District Court, in Edinburg, Texas, why the testimony or records are sought, and why the information sought is not readily available through other sources. After examining the subpoena, the United States Probation Office, pursuant to authority expressly granted to it by the Administrative Office of the United States Courts, has determined that Attorney Ricardo L. Salinas' request for records and testimony should be denied. After reviewing the Subpoena and applicable law, the Court supports the United States Probation Office's decision not to comply with the subpoena, and accordingly orders that the

subpoena is quashed in its entirety.

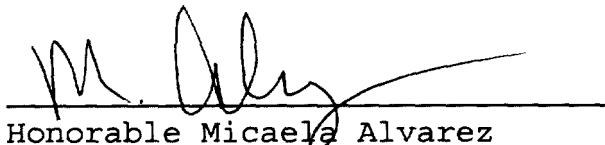
The Director of the Administrative Office of the United States Courts, pursuant to authority granted under 28 U.S.C. §604, has created a comprehensive scheme governing the testimony of judicial personnel and the production of judiciary records in legal proceedings (the "Guide"). Guide to Judiciary Policies and Procedures, Vol I Ch. 11-G. The Guide provides that any request for testimony or production of records must include a written statement containing the nature of the testimony and records sought, the relevance of the desired testimony and records, the reasons why the records and testimony are sought, and an explanation of why the testimony and records are not readily available by other means. *Id.* Failure to include such information enables the determining office to deny the requests. *Id.* Further, the determining officer may, in an exercise of broad discretion granted under the Guide, deny the request for testimony or records as she determines appropriate. *Id.*

Attorney Ricardo L. Salinas did not provide a compelling or particular need for the information sought. The subpoena does not indicate how the documents or testimony requested are either relevant or necessary.

Accordingly, the United States Probation Office properly determined that the attorney's request should be denied. Further, The Court determines that the U.S. Probation Officer named in the subpoena shall not comply with any requests made by Attorney Ricardo L. Salinas. Given the foregoing, the Court hereby:

ORDERS the subpoena issued upon United Stated Probation Officer Celina Guerra and the U.S. Probation Office's Custodian of Records on May 27, 2005, are QUASHED.

Signed this 27<sup>th</sup> day of May, 2005.

  
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Honorable Micaela Alvarez  
United States District Judge

**U. S. MARSHAL'S OFFICE**

BY: A. Reyes

DATE: 5-31-05

TIME: 11:00 AM